

**SEATTLE OFFICE FOR CIVIL RIGHTS
OFFICE OF LABOR STANDARDS**

MINIMUM WAGE & WAGE THEFT

MARCH 2015



OFFICE OF LABOR STANDARDS

➤ **Removing Barriers to Workplace Equity**

- **Minimum Wage**
- **Administrative Wage Theft**
- **Paid Sick and Safe Time**
- **Job Assistance Ordinance**

MINIMUM WAGE ★ BASICS



SEATTLE OFFICE FOR
 **CIVIL RIGHTS**

500,000 employees working in Seattle
100,000 employees earn
less than \$15/hour

Race/Ethnicity	% low wage workers	% workers in Seattle
Hispanic	49%	7%
Am. Indian/ Alaskan Native	70%	1%
Asian/ Pacific Islander	41%	13%
Black	43%	8%
Other	26%	not calculated
White	25%	72%

**30,000 employers
with employees
working in Seattle**

600 franchisees

1,700 franchise locations

19,000 franchise workers

April 1, 2015

\$11.00 per hour

LARGE EMPLOYERS

(501+ EMPLOYEES)

MINIMUM WAGE

- Flat Rate: \$11.00 per hour
- Beginning 2016, employers can pay a reduced hourly rate if they pay toward an employee's medical benefits

SMALL EMPLOYERS

(500 OR FEWER EMPLOYEES)

MINIMUM COMPENSATION

❖ **\$11.00 per hour**

or

❖ **\$10.00 per hour plus \$1 tips & payment
toward medical benefits**

LARGE EMPLOYERS (501+ EMPLOYEES)

Year	Minimum Wage	Minimum Wage + Payment toward Medical Benefits
2015	\$11.00	\$11.00
2016	\$13.00	\$12.50
2017	15.00	\$13.50
2018	\$15.36	\$15.00

SMALL EMPLOYERS

(500 OR FEWER EMPLOYEES)

Year	Minimum Compensation	Minimum Wage plus tips and/or payments toward medical benefits
2015	\$11.00	\$10.00
2016	\$12.00	\$10.50
2017	\$13.00	\$11.00
2018	\$14.00	\$11.50
2019	\$15.00	\$12.00
2020	\$15.75	\$13.50
2021	\$16.49	\$15.00

MINIMUM WAGE

★ DETAILS



EMPLOYEE LIMITATIONS

➤ Occasional Basis Employees (un-scheduled)

- Must work in Seattle 2 hours within 2 week period
- Once threshold is met, all Seattle hours are covered by ordinance

➤ Exclusions

- Work Study
- SMC 12A.28.200

➤ Subminimum Wage

- Minors
- Learners, apprentices, messengers, workers with a disability

EMPLOYER SIZE

★ Large Employers - Schedule 1

501+ employees in United States

★ Small Employers - Schedule 2

500 or fewer employees in United States

COUNTING EMPLOYEES

➤ Schedule size

- Individual employees in United States (not FTEs)
- All franchise employees
- Jointly employed employees (e.g. temps)
- Average number of employees employed per calendar week during preceding calendar year or first 90 days of business

SEPARATE BUSINESSES THAT ARE RELATED

➤ Integrated Enterprise Test = Single Employer

- Degree of interrelation between the operations;
- Degree to which the entities share common management;
- Centralized control of labor relations; and/or
- Degree of common ownership or financial control over the entities.

➤ Exception

- Employers share some degree of interrelated operations and common management with one another, but
- Separate legal entities operate substantially in separate physical locations
- Each separate legal entity has partially different ultimate ownership.

MEDICAL BENEFITS

- Affordable Care Act, Silver Level
- Equivalent plan (70 percent of benefits)
- Employer must actually make payments toward the plan

WAGES

Wage

- Commissions, piece-rate and non-discretionary bonuses
- Not tips
- Not employer payments toward medical benefits plans

SUBMINIMUM WAGES

➤ Minors

- 16-17 years old earn 100% of Seattle minimum wage
- 14-15 years old earn 85% of Seattle minimum wage

➤ Learners, Apprentices, Messengers, Workers with a Disability

- Request permission from OLS to pay wage less than Seattle minimum wage but above state minimum wage
- Special Certificate from L & I
- RCW 49.46.060 & WAC 296-128

TWO OR MORE POSITIONS FOR SAME EMPLOYER

- Employee performs work in tipped and non-tipped position for same employer
- Tips count toward hourly minimum compensation only for hours worked in tipped position

SERVICE CHARGES

➤ Not tips

➤ Commissions

- If paid to employee, service charges can be commissions, but only for Seattle min wage (not state min wage)

➤ Disclosure

- Service charge % paid to employee must be disclosed on menu and itemized receipt

JOINT EMPLOYERS

- **Different employers may both employ the same employee**
- **Determination = Economic Realities Test**
- **Schedule Size**
 - Count all jointly employed employees
- **Payment Rate**
 - Joint employer with the most employees determines the hourly rate
- **Joint & Several Liability**

WAGE THEFT



WAGE THEFT

Failure to pay all wages and tips owed to an employee

- Not being paid minimum wage,
- Not being paid for overtime,
- Working off the clock,
- Not being paid at all, or
- Not being paid the amount promised

WAGE THEFT ORDINANCE

- **Pay all wages and tips owed to an employee, and**
- **Provide written notice of employer contact information and wage & tip payment**

NOTICE UPON HIRE

(AND CHANGE OF EMPLOYMENT)

- 1. Employer name**
- 2. Employer address**
 - Physical and mailing address
- 3. Employer Telephone number**
- 4. Employee's rate or rates of pay**
- 5. Tip policy**
- 6. Pay basis**
 - Hour, shift, day, week, commission
- 7. Established pay day**

NOTICE EVERY PAY DAY

- 1. Rate or rates of pay**
- 2. Tip payment**
- 3. Pay basis**
 - Hour, shift, day, week, commission
- 4. Gross wages**
- 5. All deductions for that pay period**

NOTICE & RECORD KEEPING



NOTICE & POSTING

➤ Poster

- Right to minimum wage and minimum compensation
- Protection against retaliation
- Right to file complaint with OLS for possible violation

➤ Language

- English, Spanish and any other language commonly spoken by employees at the particular workplace.

RECORD KEEPING

- **Three Years**
- **State Payroll Records**
- **Minimum wages paid to each employee**
 - Commissions
 - Bonuses
 - Tips
 - Payments toward medical benefits

RETALIATION



RETALIATION IS PROHIBITED

- **Protected Activity = Employee's Assertion of MWO rights**
- **No Adverse Actions or Discrimination**
- **No Threats to Report Employee's Immigration Status**

ENFORCEMENT



ENFORCEMENT

- **First Year = Outreach & Education**
- **Full remedy for workers**
- **No employer penalties unless repeat or egregious conduct**

ENFORCEMENT OPTIONS

- **Compliance Letter**
- **Individual Charge**
- **Director's Charge**
- **Directed Investigation**

REMEDY & PENALTIES

Violation	Remedy or Penalty
All Violations	Back Wages + Interest
First Violation	Warning and up to \$500 per employee
Second Violation	Up to \$1000 per employee or 10% of unpaid wages, whichever is greater
Third Violation	Up to \$5,000 per employee or 10% of unpaid wages, whichever is greater
Subsequent Violation	Up to \$20,000 per employee
(Willful) Notice – First Violation	\$125
(Willful) Notice – Subsequent Violation	\$250
(Willful) Interference	\$1000 to \$5000

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seattle.gov/laborstandards

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